

INITIAL STATEMENT OF REASONS

- a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 35000(d)(5)

Specific Purpose:

The specific purpose of this section is to provide a definition for "diligent recruitment" which means to actively find and develop resources to recruit foster and prospective adoptive parents from every race, ethnicity, culture and national origin in order to facilitate the matching of children to adoptive homes that will meet the needs of the child.

Factual Basis:

This section is necessary to meet the requirements of the federal Multiethnic Placement Act of 1994, Public Law 103-382 at 42 United States Code (USC) section 622(b)(7), where each state must diligently recruit foster and prospective adoptive parents who reflect the race and ethnicity, culture and national origin of children/youth currently in foster care for whom permanent homes are needed.

Section 35011(a)

Specific Purpose:

The specific purpose of this revision is to expand the term agency to include "department, county adoption agency or licensed adoption agency." The editorial change is to provide clarity and consistency that the responsible adoption agency shall recruit prospective adoptive parents for children who are freed for adoption.

Factual Basis:

This section is necessary to meet the requirements specified in Senate Bill (SB) 1013 (Chapter 35, Statutes of 2012, section 23), Family Code section 8710, that county adoption agencies are no longer licensed by the State Department of Social Services, but authorized to perform services as an adoption agency. Licensed adoption agencies are licensed by the Department to provide adoption services. The editorial revision in this section is to clarify that the responsible adoption agency shall recruit prospective adoptive parents for children who are freed for adoption.

Section 35011(b)

Specific Purpose:

The specific purpose of this new section is to direct the adoption agency to make a concerted effort of recruiting prospective adoptive parents who reflect the race, ethnicity and cultural diversity of children in care who wait for permanent homes. The placement decisions should be specific to the needs of the child.

Factual Basis:

This section is necessary to meet the requirements of the federal Multiethnic Placement Act of 1994, Public Law 103-382 at 42 USC section 622(b)(7) and the Interethnic Adoption Provisions of Public Law 104-188 at 42 USC section 1996b., where each adoption agency must diligently recruit for prospective adoptive parents who reflect the race and ethnicity, culture and national origin of children/youth currently in foster care for whom permanent homes are needed. The needs of the child must be taken into consideration when making placement decisions. The diligent recruitment effort provision does not require an adoption agency to recruit prospective parents for the purpose of increasing the number of transracial placements.

Section 35011(c)

Specific Purpose:

The specific purpose of this section is to direct the adoption agency to accept applications from prospective adoptive parents who express an interest in adopting a child whose race, color or national origin differs from their own.

Factual Basis:

This section is necessary to meet the requirements of the Interethnic Adoption Provisions of Public Law 104-188 at 42 USC section 1996b., where adoption agencies are prohibited from denying any individual the opportunity to become an adoptive parent on the basis of race, color or national origin of the individual or of the child involved. An adoption agency must accept applications from prospective adoptive parents who express an interest in adopting a child whose race and ethnicity, culture and national origin does not match their own.

Section 35011(c)(1)

Specific Purpose:

The specific purpose of this section is to specify that the application of these regulations shall not affect the application of the federal Indian Child Welfare Act.

Factual Basis:

This section is necessary to meet the requirement of the Interethnic Adoption Provisions of Public Law 104-188 at 42 USC section 1996b.(3) and Family Code section 8708(b), where the application of these regulations shall not affect the application of the Child Welfare Act of 1978.

Section 35011(c)(2) (Renumbered from 35011(a)(1))

Specific Purpose/Factual Basis:

Section 35011(c)(2) is renumbered from 35011(a)(1) to accommodate the adoption of new Sections 35011(b), (c) and (c)(1) and amended for consistency with amended Section 35011(a). The department, county adoption agency or licensed agency shall apply the requirements of specified Family Code sections when recruiting prospective adoptive applicants.

Section 35011(c)(3) (Renumbered from 35011(a)(2))

Specific Purpose/Factual Basis:

Section 35011(c)(3) is renumbered from 35011(a)(2) to accommodate the adoption of new Sections 35011(b), (c) and (c)(1).

Section 31-005.12

Specific Purpose/Factual Basis:

The specific purpose of this amendment is to replace the term "actively" with the term "diligently" to be consistent with the recruitment requirements of the Multiethnic Placement Act of 1994, Public Law 103-382 at 42 USC section 622(b)(7). The last phrase in the section is unnecessary as "children's case plans" include the "varied needs of children."

Section 31-005.121

Specific Purpose:

The specific purpose of this new section is to require that foster care agencies diligently recruit foster and/or prospective adoptive parents who can meet the distinctive needs of children awaiting placement that reflect the race, color, ethnic, national origin or culture of the foster parent or the child involved.

Factual Basis:

This section is necessary to require foster care agencies to diligently recruit foster and/or prospective adoptive parents in the delivery of permanency for children. The Multiethnic Placement Act of 1994, Public Law 103-382 at 42 USC section

622(b)(7) requires foster care agencies to diligently recruit potential foster families that reflect the ethnic and racial diversity of children in the State for whom foster homes are needed.

Sections 31-005.122 through .122(b)

Specific Purpose:

These sections are adopted to require foster care agencies receiving financial assistance from their county, when funds are allocated from the State, to adhere to State funding requirements. State allocated funds cannot support programs that deny to any person the opportunity to become a foster parent on the basis of race, color or national origin of the foster parent. State allocated funds cannot support programs that would deny the child involved or delay the placement of a child into foster care on the basis of race, color or national origin of the foster or adoptive parents, or the child involved.

Factual Basis:

These sections are necessary to be consistent with the Interethnic Adoption Provisions of Public Law 104-188 at 42 USC section 1996b.(1) and Family Code section 7950 which state that a person or government that is involved in foster care placement may not deny to any individual the opportunity to become a foster parent, on the basis of race, color or national origin of the individual or the child involved, or delay or deny the placement of a child into foster care on the basis of the race, color or national origin of the foster parent or the child involved. Noncompliance with these sections is deemed a violation of title VI of the Civil Rights Act of 1964.

Section 31-405.21

Specific Purpose/Factual Basis:

This section is amended to require the social worker, among other things, to assist the child to maintain his/her culture, racial and ethnic identity when arranging for the child's placement. The Interethnic Adoption Provisions of Public Law 104-188 at 42 USC section 1996b. prohibits the denial of placement into foster care or adoption of a child on the basis of race, color or national origin of the foster or adoptive parent, or the child involved.

Section 31-420.121

Specific Purpose:

The specific purpose of this new section is to require that foster care agencies diligently recruit prospective foster parents that reflect the ethnic and racial background of children who need homes regardless of race, color, national origin or culture of the foster parent of the child involved.

Factual Basis:

This section is necessary to be in compliance with the Multiethnic Placement Act of 1994, Public Law 103-382 at 42 USC section 622(b)(7) which requires foster care agencies to diligently recruit potential foster families that reflect the ethnic and racial diversity of children in the State for whom foster homes are needed.

Sections 31-420.122 through .122(b)

Specific Purpose:

These sections are adopted to require foster care agencies receiving financial assistance from their county, when funds are allocated from the State, to adhere to State funding requirements. State allocated funds cannot support programs that deny to any person the opportunity to become a foster parent on the basis of race, color or national origin of the foster parent. State allocated funds cannot support programs that would deny the child involved or delay the placement of a child into foster care on the basis of race, color or national origin of the foster or adoptive parents, or the child involved.

Factual Basis:

These sections are necessary to be consistent with the Interethnic Adoption Provisions of Public Law 104-188 at 42 USC section 1996b. which states that a person or government that is involved in foster care placement may not deny to any individual the opportunity to become a foster parent, on the basis of race, color or national origin of the individual or the child involved, or delay or deny the placement of a child into foster care or adoption on the basis of the race, color or national origin of the adoptive or foster parent or the child involved. Noncompliance with these sections is deemed a violation of title VI of the Civil Rights Act of 1964.

Sections 31-425.121 through .121(b)

Specific Purpose:

These sections are adopted to require foster care agencies receiving financial assistance from their county, when funds are allocated from the State, to adhere to State funding requirements. State allocated funds cannot support programs that deny to any person the opportunity to become a foster parent on the basis of race, color or national origin of the foster parent. State allocated funds cannot support programs that would deny the child involved or delay the placement of a child into foster care on the basis of race, color or national origin of the foster or adoptive parents, or the child involved.

Factual Basis:

These sections are necessary to be consistent with the Interethnic Adoption Provisions of Public Law 104-188 at 42 USC section 1996b.(1) which states that a person or government that is involved in foster care placement may not deny to any individual the opportunity to become a foster parent, on the basis of race, color or national origin of the individual or the child involved, or delay or deny the placement of a child into foster care or adoption on the basis of the race, color or national origin of the adoptive or foster parent or the child involved. Noncompliance with these sections is deemed a violation of title VI of the Civil Rights Act of 1964.

b) Identification of Documents Upon Which Department Is Relying

- Multiethnic Placement Act of 1994, Public Law 103-382 at 42 USC section 622(b)(7).
- Interethnic Adoption Provisions of Public Law 104-188 at 42 USC section 1996b.

c) Local Mandate Statement

These regulations do impose a mandate upon local agencies, but not on school districts. There are no "state-mandated local costs" in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code because any costs associated with the implementation of these regulations are costs mandated by the federal government within the meaning of Section 17513 of the Government Code.

d) Statement of Alternatives Considered

There are no alternatives to these regulations. The CDSS, Children and Family Services Division is responsible for oversight and providing guidance to ensure that public welfare adoption agencies, private adoption agencies and foster agencies follow laws and regulations regarding recruitment of prospective adoptive and foster individuals in accordance with federal Public Law 103-382 and Public Law 104-188, and Family Code sections 8708 and 7950 to eliminate racial, ethnic and national origin discrimination and bias in adoption and foster care placement. These regulations prohibit delay or deny placement of a child for adoption or foster care, based on race, color, or national origin (RCNO) of the adoptive or foster parent, or the child. An agency is prohibited from denying anyone the opportunity to become an adoptive or foster parent, on the basis of RCNO or culture of the individual parent or child in accordance with the law. These regulations require agencies to recruit a diverse base of prospective adoptive and foster parents to meet the needs of the children in out of home care. Recruiting adoptive parents who express an interest in adoption of a child who has been legally freed for adoption increases the annual percentage of adoptions.

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or

would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

e) Statement of Significant Adverse Economic Impact On Business

The CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination was made based on the knowledge that these activities are a part of the adoption/foster care process and it would be a cost savings when a child is adopted, as the state no longer pays for foster care.

f) Economic Impact Assessment [Government Code section 11346.3(b)]

In accordance with Government Code section 11346.3(b), CDSS has made the following assessments regarding the proposed regulations. This analysis is intended to be a tool or baseline to establish that these regulatory measures are the most cost-effective to affected California enterprises and equally effective in implementing the statutory policy or other provision of law.

Creation or Elimination of Jobs Within the State of California

The adoption of the proposed regulations will neither create nor eliminate jobs in the State of California. The justification for this statement is on the knowledge that these activities are only a part of the adoption/foster care process and when a child is adopted, the State no longer pays for foster care.

Creation of New or Elimination of Existing Businesses Within the State of California

The adoption of the proposed regulations will neither result in the creation of new businesses nor elimination of existing businesses in the State of California. The justification for this statement is on the knowledge that these activities are only a part of the adoption/foster care process and when a child is adopted, the State no longer pays for foster care.

Expansion of Businesses Within the State of California

The adoption of the proposed regulations will not result in the expansion of businesses in the State of California. The justification for this statement is on the knowledge that these activities are only a part of the adoption/foster care process and when a child is adopted, the State no longer pays for foster care.

Benefits of the Regulations

The benefits of the regulatory action to the health and welfare of California residents, worker safety, and the state's environment are as follows: These regulations will provide clarity and direct foster care agencies to conduct recruitment activities for the purpose of recruiting prospective foster parents who reflect the racial, ethnic and culture diversity of the children and youth who need permanent homes.

Documents Relied Upon

These regulatory revisions are in accordance with the Multiethnic Placement Act of 1994, Public Law 103-382 at 42 USC section 622(b)(7) and the Interethnic Adoption Provisions of Public Law 104-188 at 42 USC section 1996b.

g) **Benefits Anticipated from Regulatory Action**

The benefits of the regulatory action to the health and welfare of California residents, worker safety, and the state's environment are as follows: These regulations will provide clarity and direct foster care agencies to conduct recruitment activities for the purpose of recruiting prospective foster parents who reflect the racial, ethnic and culture diversity of the children and youth who need permanent homes.

h) **Statement of Specific Technology or Equipment**

This regulatory action will not mandate the use of new, specific technologies or equipment.